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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION No. 7384 OF 2013

Deepak Pranjivandas Shah

....Petitioner

Vs.

***Intellectual Property Appellate Board
and Ors.***

....Respondents

Mr. Ravi Kadam , Senior Counsel a/w. Mr. Rohan Kadam i/b Kedar Patil a/w. Vikramsingh Parmar, for the Petitioner.

Mrs. S.V. Bharucha for Respondent nos.1 to 4

***CORAM : V. M. KANADE &
M.S. KARNIK, JJ.***

DATE : APRIL 13, 2016

P.C. :

1. Heard the learned Senior Counsel appearing on behalf of the Petitioner and the learned counsel for respondent Nos.1 to 4. None appears on behalf of Respondent No.5, though he is served.
2. Rule was issued on 31.1.2014 and thereafter, rule has been served on all the respondents.
3. Shri Ravi Kadam, Senior Counsel appearing on behalf of the

Petitioner has submitted that without going into the controversy, the matter may be remanded back to the Tribunal. He submitted that before the Tribunal, none appeared on behalf of the Controller and the order was reserved. However, when the copy of the reasoned order was received, the Petitioners noticed that the Tribunal had taken into consideration various judgments of the US Courts, though the copies of these judgments were not brought to the notice of the Petitioners. He further submitted that even these judgments were not cited before the Controller by any party. He submitted that on this ground alone, the impugned order was liable to be set aside.

4. In our view, there is much substance in the submissions made by the learned Senior Counsel appearing on behalf of the Petitioners. It is well settled position in law that if the Court wishes to refer to any judgment or material in the judgment, then it is a duty of the Court to bring those judgments to the notice of all the parties so that, the party can deal with the said judgments. In the present case since admittedly this has not been done, the impugned order will have to be set aside.

5. The impugned order, therefore, is set aside on this ground alone and the matter is remand back to the Appellate Tribunal. All contentions

of all the parties are kept open. The Appellate Tribunal shall hear the appeal afresh, expeditiously on merits and in accordance with law. We direct the Appellate Tribunal to dispose of the appeal within six weeks. The writ petition is disposed of in the aforesaid terms.

Sd/-
M.S.KARNIK, J.

Sd/-
V.M. KANADE, J.